

76-8-306 Obstruction of justice in criminal investigations or proceedings -- Elements -- Penalties -- Exceptions.

- (1) An actor commits obstruction of justice if the actor, with intent to hinder, delay, or prevent the investigation, apprehension, prosecution, conviction, or punishment of any person regarding conduct that constitutes a criminal offense:
 - (a) provides any person with a weapon;
 - (b) prevents by force, intimidation, or deception, any person from performing any act that might aid in the discovery, apprehension, prosecution, conviction, or punishment of any person;
 - (c) alters, destroys, conceals, or removes any item or other thing;
 - (d) makes, presents, or uses any item or thing known by the actor to be false;
 - (e) harbors or conceals a person;
 - (f) provides a person with transportation, disguise, or other means of avoiding discovery or apprehension;
 - (g) warns any person of impending discovery or apprehension;
 - (h) warns any person of an order authorizing the interception of wire communications or of a pending application for an order authorizing the interception of wire communications;
 - (i) conceals information that is not privileged and that concerns the offense, after a judge or magistrate has ordered the actor to provide the information; or
 - (j) provides false information regarding a suspect, a witness, the conduct constituting an offense, or any other material aspect of the investigation.
- (2)
 - (a) As used in this section, "conduct that constitutes a criminal offense" means conduct that would be punishable as a crime and is separate from a violation of this section, and includes:
 - (i) any violation of a criminal statute or ordinance of this state, its political subdivisions, any other state, or any district, possession, or territory of the United States; and
 - (ii) conduct committed by a juvenile which would be a crime if committed by an adult.
 - (b) A violation of a criminal statute that is committed in another state, or any district, possession, or territory of the United States, is a:
 - (i) capital felony if the penalty provided includes death or life imprisonment without parole;
 - (ii) a first degree felony if the penalty provided includes life imprisonment with parole or a maximum term of imprisonment exceeding 15 years;
 - (iii) a second degree felony if the penalty provided exceeds five years;
 - (iv) a third degree felony if the penalty provided includes imprisonment for any period exceeding one year; and
 - (v) a misdemeanor if the penalty provided includes imprisonment for any period of one year or less.
- (3) Obstruction of justice is:
 - (a) a second degree felony if the conduct which constitutes an offense would be a capital felony or first degree felony;
 - (b) a third degree felony if:
 - (i) the conduct that constitutes an offense would be a second or third degree felony and the actor violates Subsection (1)(b), (c), (d), (e), or (f);
 - (ii) the conduct that constitutes an offense would be any offense other than a capital or first degree felony and the actor violates Subsection (1)(a);
 - (iii) the obstruction of justice is presented or committed before a court of law; or
 - (iv) a violation of Subsection (1)(h); or
 - (c) a class A misdemeanor for any violation of this section that is not enumerated under Subsection (3)(a) or (b).

- (4) It is not a defense that the actor was unaware of the level of penalty for the conduct constituting an offense.
- (5) Subsection (1)(e) does not apply to harboring a youth offender, which is governed by Section 62A-7-402.
- (6) Subsection (1)(b) does not apply to:
 - (a) tampering with a juror, which is governed by Section 76-8-508.5;
 - (b) influencing, impeding, or retaliating against a judge or member of the Board of Pardons and Parole, which is governed by Section 76-8-316;
 - (c) tampering with a witness or soliciting or receiving a bribe, which is governed by Section 76-8-508;
 - (d) retaliation against a witness, victim, or informant, which is governed by Section 76-8-508.3; or
 - (e) extortion or bribery to dismiss a criminal proceeding, which is governed by Section 76-8-509.
- (7) Notwithstanding Subsection (1), (2), or (3), an actor commits a third degree felony if the actor harbors or conceals an offender who has escaped from official custody as defined in Section 76-8-309.

Amended by Chapter 213, 2009 General Session